

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

DIRECTOR, DEPARTMENT OF LABOR
AND INDUSTRIAL RELATIONS,

Complainant,

and

BRELLE WEST CONSTRUCTION &
RESTORATION, INC.,

Respondent.

CASE NO. OSH 2007-11

ORDER NO. 248

PRETRIAL ORDER

PRETRIAL ORDER

Pursuant to the initial conference in this matter held by the Hawaii Labor Relations Board ("Board") on June 7, 2007, attended by Robyn M. Kuwabe, Deputy Attorney General, for Complainant, and Randall French, for Respondent, IT IS HEREBY ORDERED THAT:

1. The issues to be determined at trial are as follows:
 - A. Whether all citation items resulting from Inspection No. 310391024, including the characterizations and penalties, are valid and proper.
 - i. Citation 1 Item 1 alleged 29 CFR 1926.501(b)(1) was violated because an employee exposed to an 11 foot 4 inch fall to the lower level while standing on the top of a wall was not protected from fall hazards and serious injuries due to falls to the lower level.

The violation was characterized as "Serious." A penalty of \$1,500.00 was imposed.
 - ii. Citation 1 Item 2a alleged that 29 CFR 1926.1053(b)(1) was violated because a ladder used by an employee to gain access to the upper landing area was several feet below the landing, which exposed the employee to serious injuries from fall hazards.

The violation was characterized as "Serious." A penalty of \$1,500.00 was imposed.

- iii. Citation 1 Item 2b alleged that 29 CFR 1926.1053(b)(13) was violated because an employee was observed stepping on the top step of a ladder while exiting an area where he had been working. By stepping onto the top step of the ladder the employee was exposed to serious injuries in the event of a fall to the lower level.

The violation was characterized as "Serious."

- iv. Citation 1 Item 3 alleged that 29 CFR 1926.701(b) was violated because the protruding re-bar was not adequately protected to prevent impalement injuries to an employee observed working above the area and exposed to the protruding re-bar.

The violation was characterized as "Serious." A penalty of \$750.00 was imposed.

2. The deadline for the parties' final naming of witnesses is **August 6, 2007**. Each party shall provide a list of the names of witnesses it plans to call at trial, along with the witnesses' addresses and expected area of testimony, to the other party and to the Board by this date. In addition, any expert witness' reports shall be exchanged by this date.
3. The discovery cutoff date is also **August 6, 2007**. All other discovery, including depositions and document requests, must be completed by this date.
4. Trial in this matter is scheduled for **September 6, 2007**, at 9:30 a.m., or as soon thereafter as this case can be heard, in the Board's hearing room located at Room 434, 830 Punchbowl Street, Honolulu, Hawaii, 96813. The trial will continue from day-to-day until completed.
5. Hereafter, this Pretrial Order shall control the course of proceedings and may not be amended except by consent of the parties and the Board, or by order of the Board.

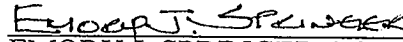
DIRECTOR, DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS v.
BRELLE WEST CONSTRUCTION & RESTORATION, INC.
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DATED: Honolulu, Hawaii, June 7, 2007.

HAWAII LABOR RELATIONS BOARD



BRIAN K. NAKAMURA, Chair



EMORY J. SPRINGER, Member



SARAH R. HIRAKAMI, Member

NOTICE TO EMPLOYER

You are required to post a copy of this Order at or near where citations under the Hawaii Occupational Safety and Health Law are posted at least five working days prior to the trial date. Further, you are required to furnish a copy of this Order to a duly recognized representative of the employees, if any, at least five working days prior to the trial date.

Copies sent to:

Robyn M. Kuwabe, Deputy Attorney General
Randall French